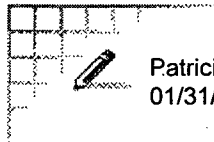


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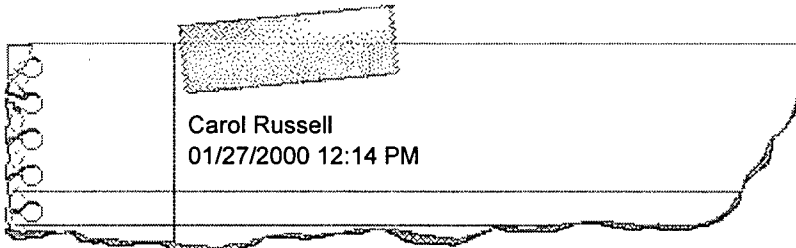
Patricia Smith  
01/31/2000 05:03 PM

To: Lisa Lloyd/EPR/R8/USEPA/US@EPA  
cc:

Subject: Animas meeting w/ blm and forest service

didn't see if you were on this, but thought you could use the update.

----- Forwarded by Patricia Smith/EPR/R8/USEPA/US on 01/31/2000 05:03 PM -----



Carol Russell  
01/27/2000 12:14 PM

To: Vern Berry/EPR/R8/USEPA/US@EPA, David Broste/ENF/R8/USEPA/US@EPA, Carol Campbell/EPR/R8/USEPA/US@EPA, Richard Claggett/EPR/R8/USEPA/US@EPA, Dave Christenson/EPR/R8/USEPA/US@EPA, Max Dodson/EPR/R8/USEPA/US@EPA, James Dunn/EPR/R8/USEPA/US@EPA, Holly Fliniau/EPR/R8/USEPA/US@EPA, Hays Griswold/EPR/R8/USEPA/US@EPA, Karen Hamilton/EPR/R8/USEPA/US@EPA, James Hanley/EPR/R8/USEPA/US@EPA, Eric Hyatt/EPR/R8/USEPA/US@EPA, Tina Laidlaw/EPR/R8/USEPA/US@EPA, Andy Lensink/ENF/R8/USEPA/US@EPA, Barry Levene/EPR/R8/USEPA/US@EPA, Doug Lofstedt/EPR/R8/USEPA/US@EPA, Peggy Livingston/RC/R8/USEPA/US@EPA, Nat Miullo/EPR/R8/USEPA/US@EPA, Dave Moon/EPR/R8/USEPA/US@EPA, Paul Osborne/P2/R8/USEPA/US@EPA, Melanie Pallman/ENF/R8/USEPA/US@EPA, Mike Reed/P2/R8/USEPA/US@EPA, William Schroeder/TMS/R8/USEPA/US@EPA, Tony Selle/EPR/R8/USEPA/US@EPA, Richard Sisk/ENF/R8/USEPA/US@EPA, Patricia Smith/EPR/R8/USEPA/US@EPA, Dale Vodehnal/EPR/R8/USEPA/US@EPA, Mike Wireman/EPR/R8/USEPA/US@EPA  
cc: Holly Fliniau/EPR/R8/USEPA/US@EPA, Orville Kiehn/EPR/R8/USEPA/US@EPA

Subject: Animas meeting w/ blm and forest service

Following are the minutes of the January 24 meeting with the BLM and USFS as written by Bill Simon. Please get back to me if you have any questions or comments. Thanks for all of your help.

Participants: George Stone, BLM (Washington), Donna Kim, USFS (Washington), Amelie Whiting, Interior Dept. Solicitor (Denver); Kirk Minckica, USDA-OGC (Washington?), James Edwards, BLM - CSO, Dale Vodehnal, EPA (Region VIII), Andy Lensink, EPA (Region VIII); Carol Russel, EPA; Vern Schmitt, USFS (Denver), Daryl Gusey, USFS, Denver, Jim Lewis, CDPHE, Hazardous Wastes; Greg Parsons, CWQCD; Dan Beley, WQCD; Dave Bucknam, DMG; and Bill Simon.

The meeting began with agency positions and problem recognition on how to get remediation accomplished in the basin. First a discussion ensued over what is an orphan mine. For the purposes of this meeting all agreed that although there may be the rare instance of a deep pocketed PRP somewhere in the basin, in fact, current owners are generally unable to financially assist with cleanup and did not contribute to the contamination problem in the first place. Everyone seemed to agree that in the Animas, if remediation were to succeed, it would not be through litigation efforts.

Next, Dale Vodehral stated that the days of the EPA funding Non-time Critical Removal Actions are largely, if not entirely, over. This is primarily due to a philosophical shift brought about by the republican dominated congress that expects EPA Superfund to work only on NPL sites. (Previously the democrats were more lenient on how the \$ could be spent-if you remember I had a Denver Post article on display where Senator Allard was encouraging congress to add more sites to the NPL). In addition, Superfund has not been re-authorized so there are no new funds available. This means there is much higher levels of competition for the funds so only those sites listed will conceivably be funded in the future. In past years several sites have been cleaned up using CERCLA "equivalent actions" with Superfund money, where the sites were not listed. These projects will not compete successfully in today's political climate.

Mr. Vodehral also stated that EPA is not interested in listing the Animas as long as there is strong local opposition. (On the other hand, if we don't continue with measurable progress, I would bet they would be reconsidering this position).

Discussion turned to identifying the reason for the opposition to Superfund listing.

Whereas EPA claimed many recent remediation projects have proceeded without opposition and without damage to "middle class" American lives, Simon asked for documented examples stating that verbal statements such as these did little to satisfy fears of the public. Could EPA provide specific examples? (Many states are currently listing abandoned mines on the NPL. But what will the consequences be other than an infusion of money to get the work done. The intent of using these funds is still to cost recover expenditures.)

Next the federal representatives seemed to agree that the Animas still has the focus of attention in Washington and that we need to resolve how cleanups will occur in the basin.

Jim Lewis gave the states position on funding availability. He cited that the only money available is from NPS 319 program. He also mentioned that this was difficult money to use because it was from a relatively small pot addressing a wide array of problems, requires a burdensome amount of accountability, and is difficult to schedule for remediation as it takes a year just to release the funds. Simon added that it also requires a 40% match that will be difficult to attain once remediation begins at the level necessary to accomplish our goals.

Jim also mentioned that a bill is before the state legislature that would allow CDPHE HazWaste Div. to use some of their funds for mine clean-ups. However, it does not authorize new money. Perhaps we should be lobbying for passage of this action but he also warned that although the legislature may favor keeping innocent, small landowners from cost recovery, mining companies may have to undergo cost recovery scrutiny. The state would probably want to recover costs at some presently undetermined level.

The discussion next shifted to funds available through the Clean Water Action Plan (CWAP). George Stone, who directs the funds from this program for the BLM, states that the funding is clearly focused as a means to merely supply seed money; that probably 95% of the funding must come from other sources. He bases this on the fact that there is only \$10 million available for the entire nation (whereas when he was with OSM he doled out \$150 million/year for mine cleanups). In other words, we might use these funds for leveraging others at best. Also he stated this limited funding source means congress intended that cleanups would be looking for deep pocketed PRP's to cover the real costs. Donna Kirk concurred; the FS receives only \$5,000,000 annually for CWAP (they also receive \$8,000,000 annually from Superfund --both "cost recoverable").

Jim Lewis and Dave Bucknam discussed state severance tax availability. The Animas has received the only amount ever distributed by the state for mine remediations (\$160,000). Approximately one-half was used by Silver Wing Co., and the other half is committed to ARSG for the Cement Creek hydrological control project. Fifty percent of the funds collected by the State go into the General Fund and most of the rest goes to the Depart. Of Local Affairs for their programs to work with the 26 counties that receive

mineral impact assistance (San Juan County is one of these having received large amounts of money for restoration of town hall, the running track, the visitors center and more. An interesting idea would be to apply for these funds for remediation!).

Federal representatives pointed out that they need Colorado to participate more monetarily. Greg Parsons pointed out that the legislature, plus the Tabor Amendment, has not been favorable to increased expenses. However, he suggested that the real driver of the stakeholders process and remediation in the future would not be Superfund but would rather be compliance to the Clean Water Act (CWA). He pointed out that for a successful special funding request the UAA and TMDL's must be set, sites prioritized and costs and schedules projected before going to the legislature. We would have to work hard to gather support and that would be based upon a clear definition of goals, past accomplishments, liabilities and costs. He also mentioned that a Good Samaritan Provision may need to be enacted before the state would seriously consider funding.

At this point, George Stone and others indicated that not enough has been getting done in the Animas. Simon responded with an oration on the truth of this if one was limiting their examination to the Federal Land Managers activities (stating what they have accomplished), but that the stakeholders as a whole have accomplished a lot. He described the various remediation projects and provided the opinion, substantiated by recent analyses, that both the biological and chemical conditions at various points in the Animas show signs of improvement. Stone was surprised of these accomplishments and we all discussed how to better get people to become aware of our successes. (It seems most people are not reading the materials and that we should have one page Status updates).

A list of action items was developed by Rob Robinson. (Included below?)

The group concluded there was only limited funding available at this time and that we should utilize it when, where, and however we can. The group was about to leave when Simon suggested short term and long term strategies as follows:

#### Short Term Strategy

- a.. Keep a short status report on ARSG website
- b.. BLM/FS should address only high priority sites
- c.. BLM/FS should enter the private sector cleanups by first finding cooperators (most likely sites nearly entirely owned by BLM or FS) so as to ensure successes without litigation. They should avoid sites with obvious conflicts for now. (develop track record) They should also get on with the Mogul Mine as they apparently have a cooperative, innocent landowner.
- d.. the Bonner, Brooklyn and Mogul would be high priority sites and may serve as target sites to accomplish remediation and regulatory/liability goals
- e.. ARSG should continue its remediation programs while completing the UAA process

#### Long Term Strategy

- a.. Encourage appropriate use of state Severance taxes (lobby)
- b.. Grease State and Federal political wheels for enactment of funding the Animas as a stand alone, watershed cleanup effort. In light of the recognition that there is a general consensus, even among our congressmen, that individual landowners are not responsible and should not be forced to pay for cleanups, the funds appropriated would not be "cost recoverable". (To counter some worries perhaps sites actively mined after a determined date [e.g. Colorado MLRA] would be excluded from the use of these funds.)

The group adjourned with the thought that an Animas Resource Group meeting needs to be held soon to further develop strategies and assign duties. Simon will initiate such a meeting to be held in March.